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21 YANG

22 UNITED STATES DISTRICT COURT  
23  
24 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
25  
26 OAKLAND DIVISION  
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28

29 In re BIGBAND NETWORKS, INC.  
30 SECURITIES LITIGATION

)  
) Master File No. 07-cv-05101-SBA  
)

) CLASS ACTION  
)

31 This Document Relates to:

32 ALL ACTIONS.

) **[PROPOSED] ORDER GRANTING**  
) **THE BIGBAND DEFENDANTS'**  
) **MOTION TO DISMISS**  
) **PLAINTIFF'S CONSOLIDATED**  
) **CLASS ACTION COMPLAINT**  
)

) DATE: December 9, 2008

) TIME: 1:00 p.m.

) COURTROOM: 3

) JUDGE: Hon. Sandra B. Armstrong  
)

1 Before the Court is the Motion to Dismiss Lead Plaintiff's ("Plaintiff") Consolidated  
2 Class Action Complaint ("Complaint") filed by defendants BigBand Networks, Inc.  
3 ("BigBand"), Amir Bassan-Eskenazi, Frederick A. Ball, Ran Oz, Lloyd Carney, Dean Gilbert,  
4 Kenneth A. Goldman, Gal Israely, Bruce I. Sachs, Robert J. Sachs and Geoffrey Y. Yang  
5 (collectively with BigBand, the "BigBand Defendants"). Having considered the arguments  
6 presented by the parties, the Court hereby finds as follows:

7 The BigBand Defendants' Motion to Dismiss is GRANTED. Plaintiff's Complaint fails  
8 to adequately plead a claim in accordance with the pleading standards under Fed. R. Civ. P. 8(a).  
9 *See Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65 (2007); *Belodoff v. Netlist, Inc.*,  
10 2008 WL 2356699, \*\*8-11 (C.D. Cal. May 30, 2008). Plaintiff's Complaint must also meet the  
11 heightened pleading requirements of Fed. R. Civ. P. 9(b) because his allegations sound in fraud.  
12 *See In re Stac Elecs. Sec. Litig.*, 89 F.3d 1399, 1404-05 (9th Cir. 1996). The Complaint fails to  
13 provide the factual details required by Fed. R. Civ. P. 9(b). *Id.* at 1402-05.

14 For the foregoing reasons, the BigBand Defendants' Motion to Dismiss is GRANTED.

15 IT IS SO ORDERED.

16  
17 Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE